



KAPLAN KIRSCH ROCKWELL

231869

February 17, 2012

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Public Record

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: *Georgia Department of Transportation—Acquisition Exemption—CSX
Transportation, Inc. in Fulton County, Georgia*. STB Finance Docket No. 35591

Dear Ms. Brown:

I am enclosing Georgia Department of Transportation's Supplement to Verified Notice of Exemption in the above referenced proceeding.

Thank you.

Sincerely,

Charles A. Spitolnik
Counsel for Georgia Department of Transportation

cc: All Parties of Record

347607

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SECRET 43
Office of Proceedings

Finance Docket No. 35591

STC 1037

**GEORGIA DEPARTMENT OF TRANSPORTATION
— ACQUISITION EXEMPTION —
CSX TRANSPORTATION, INC.
IN FULTON COUNTY, GA**

**SUPPLEMENT TO
VERIFIED NOTICE OF EXEMPTION**

Communications with respect to the
document should be addressed to:

Charles A. Spitulnik
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Suite 800
Washington, D.C. 20036
(202) 955-5600
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Counsel for Georgia Department of
Transportation

Dated: February 17, 2012

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35591

**GEORGIA DEPARTMENT OF TRANSPORTATION
— ACQUISITION EXEMPTION —
CSX TRANSPORTATION, INC.
IN FULTON COUNTY, GA**

**SUPPLEMENT TO
VERIFIED NOTICE OF EXEMPTION**

The Georgia Department of Transportation (“**GDOT**”), a department of the State of Georgia organized under Title 32, Chapter 2, of the Official Code of Georgia, hereby submits this Supplement to its Verified Notice of Exemption, filed on January 30, 2012, in this proceeding. GDOT supplements the information it provided at that time as follows:

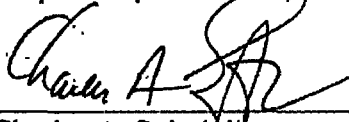
(1) GDOT acquired the property that is the subject of this transaction in 2001. Due to an oversight on the part of the parties to the transaction at the time, GDOT did not submit any notice, petition for exemption or application at that time.

(2) GDOT did not hold itself out as a common carrier and made no offers or representations to the public that it would provide freight service on this line at the time of the acquisition, and has made no such offers or representations since that time. Rather, GDOT acquired the corridor to preserve it for future transportation uses. No freight traffic has moved on the corridor since 2001, and no party (neither GDOT nor CSX Transportation, Inc. (“**CSXT**”) nor anyone else) has held out any offer to provide any such service since that time. GDOT is now contemplating transfer of this corridor to the Atlanta Belt Line, Inc. (“**ABI**”) for the

development of public transit and trail facilities and plans to seek authority to abandon the line prior to implementing that conveyance. The absence of "holding out" and the clear statement of intention to seek authority to abandon the line immediately support GDOT's statement that it does not intend to become a common carrier with respect to this line. While in the absence of a determination from this Board that GDOT did not acquire such authority upon its acquisition of the property¹ GDOT as a matter of law may be viewed as having become a common carrier on this corridor, the statement regarding the common carrier status in the Notice of Exemption addresses GDOT's expectation that any such status will be extinguished upon completion of the abandonment process.

(3) A certification pursuant to 49 C.F.R. §1150.33(g) that GDOT's revenues on the corridor will not exceed those that would qualify it as a Class III carrier and will not result in the creation of a Class I or Class II carrier is attached hereto.

Respectfully submitted,



Charles A. Spitulnik
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Counsel for the Georgia Department of
Transportation


Dated: February 17, 2012

¹ *Maine Department of Transportation – Acquisition and Operation Exemption – Maine Central R.R. Co.*, 8 I.C.C. 2d 835 (1991) ("State of Maine").

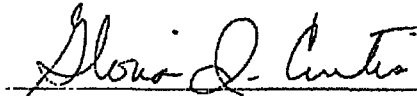
VERIFICATION AND CERTIFICATION

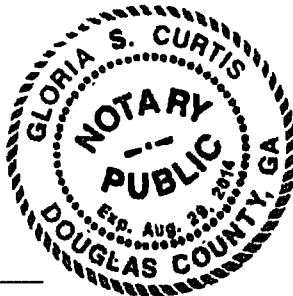
I, Carol L. Comer, Director – Division of Intermodal, Georgia Department of Transportation, verify under penalty of perjury that the facts recited in the foregoing Notice of Exemption are true and correct. Further, I certify that I have personal knowledge of the facts stated therein and that I am authorized to verify these facts stated in this Verified Notice of Exemption.

In addition, this is to certify, as required by 49 C.F.R. § 1150.33(g) that, because the Georgia Department of Transportation will conduct no freight operations on the line segments being acquired, its revenues from freight operations will not exceed those that would qualify it as a Class III carrier and will not result in the creation of a Class I or Class II carrier.


Carol L. Comer
Director – Division of Intermodal, Georgia
Department of Transportation

Subscribed and sworn to
before me this 15th day of
February, 2012.


Notary Public



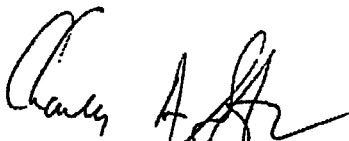
My commission expires: 8-29-2014

Certificate of Service

I hereby certify that I have this day caused a copy of the foregoing Supplement to Notice of Exemption of the Georgia Department of Transportation to be served by first class mail, properly addressed and with postage prepaid, upon the following:

CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Historic Preservation Division
Georgia Department of Natural Resources
254 Washington Street, SW, Ground Level
Atlanta, GA 30334



Charles A. Spitulnik
Counsel for Georgia Department of Transportation

Dated: February 17, 2012